

## SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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June 13, 1974

TO: All Commissioners and Alternates  
FROM: Charles R. Roberts, Executive Director  
SUBJECT: Commission Statement on AB 2040 (Knox)

Attached is a draft of a letter to Assemblyman Knox, author of AB 2040, and to Senator Marks, Chairman of the Senate Local Government Committee, stating the Commission's opposition to BCDC being included in the proposed Bay Area Planning Agency. The statement is based on the remarks made at the request of the Chairman by those Commissioners present and voting at the June 6th Commission meeting. As directed by the Commission, this letter will be typed and mailed after the close of business on Monday, June 17, 1974, to ensure its receipt in Sacramento prior to the scheduled June 20th hearing on the bill by the Senate Local Government Committee. Any suggested changes should be submitted to the staff prior to 4:30 p.m. on Monday.

Attach.

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## SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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DRAFT LETTER

Assemblyman John T. Knox  
State Capitol  
Sacramento, CA 95814

and

Senator Milton Marks  
State Capitol  
Sacramento, CA 95814

Dear Assemblyman Knox and Senator Marks:

At its last meeting on June 6, 1974, the Commission discussed Assembly Bill 2040, which has recently been amended to bring BCDC into the proposed Bay Area Planning Agency (BAPA). After considerable discussion, the Commission voted 14 to 0 to oppose including BCDC in the new agency. The Commission strongly felt, however, that a statement of the reasons for its opposition should be transmitted to you, and the Chairman requested that each Commissioner present state his or her views on the bill prior to voting. These views have been incorporated into the following statement:

1. The Bay As a State-Wide Resource. San Francisco Bay is a resource of state-wide importance. This fact has been recognized in the composition of the Commission, which includes representatives of various State agencies and the general public, and in the State legislation that created the Commission. Furthermore, in the early 1960's, local government in the Bay Region could have acted on unrestricted Bay fill. But, though there were long discussions at meetings of the existing association of local governments, nothing was done. Therefore, a regional planning agency with a governing board composed entirely of appointed local officials, which may be subject

to the same political pressures that led to indiscriminate filling in the past, should not be entrusted with the future of San Francisco Bay or given the power to change the San Francisco Bay Plan.

2. Priority of Bay Conservation and Development. The bill does not give sufficiently high priority to the conservation and development of San Francisco Bay. Section 66191 states that the regional plan to be prepared by BAPA shall include at least four elements: environmental quality; transportation; land use; and resource management. Though forests, rivers, soils, fish and wildlife, and "other natural resources" are referred to, San Francisco Bay, the single most important natural resource in the region, is not mentioned at all. Moreover, the findings and declarations of the McAteer-Petris Act, which recognize the importance of the Bay, are not included in the bill. Nor is the regional plan required to be consistent with the McAteer-Petris Act and the Bay Plan, though it must meet standards set under other State legislation for air quality, water quality, and solid waste management.

3. Potential Conflict with the McAteer-Petris Act. Both the San Francisco Bay Plan and the McAteer-Petris Act were adopted after a lengthy comprehensive planning process and often arduous public debate. As a result, important procedural guarantees were written into the McAteer-Petris Act with regard to amendments to policies and standards in the Bay Plan. Under the law, these require a two-thirds vote and ninety days notice to the public.

Under AB 2040, these procedural guarantees could be lost. The BAPA regional plan and amendments to it are to be implemented through ordinances adopted by a majority vote of the agency board. The plans of all "local agencies," of which the Commission is one by definition under Sections 66121 and 66115, must be consistent with these ordinances. The agency also has the



power to order a local agency, including the Commission, to cease and desist from enforcing those portions of its plan that are not consistent with the ordinances enacted to carry out the regional plan. In short, BAPA, by majority vote and less than ninety days notice, could render unenforceable a portion of the Bay Plan that could otherwise be changed only by a two-thirds vote of the Commission after ninety days notice.

4. Composition of the Commission. The Commission is presently composed of representatives from the Federal Government, the State, local governments around the Bay, and the general public. The combination has worked well, and as a "winning team," it should not be broken up.

5. Workload. The governing board of BAPA would not only assume the Commission's planning functions, but also its permit and enforcement responsibilities as well. Both of the latter, but particularly the permits, consume considerable time. It seems unlikely that part-time councilmen and supervisors would be able to devote the necessary time to a regional agency with responsibilities as broad as BAPA's. As a result, less time would be devoted to planning and regulating San Francisco Bay.

6. The Attorney-General. Under AB 2040, the Commission would lose the services of the California Attorney General, probably immediately and in any event at the time the BAPA board became the ex-officio BCDC. The Commission believes that a key factor in its success has been its representation by the Attorney General. Not only has the quality of the individuals representing the Commission been unusually high, but also the Attorney General, by virtue of his position as the chief law enforcement officer of the State, has been in a unique position to present to courts the public perspective on legal issues affecting the Commission.



7. Need for Further Study. Though further study can be an excuse for not making a decision, including BCDC in BAPA is giving up a working solution for an unknown. Before BCDC is absorbed into any other agency, there should be an initial study and a report to the Legislature on the consequences of merging BCDC with other agencies. Such a study might be prepared by an agency created especially for that purpose, similar to the study commission that led to the creation of BCDC, and the study should include consideration of whether BCDC should become part of a regional planning agency, a State-wide coastal planning agency, or a State agency responsible for environmental control.

8. Additional Comments of Individual Commissioners. Commissioner Godfrey, speaking on behalf of Solano County and the cities in the County, stated that he is opposed to AB 2040 regardless of whether BCDC is included. Commissioner Raggio stated he is opposed to regional government in any form.

Very truly yours,

/s/ CHARLES R. ROBERTS  
Executive Director

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